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NO. 85-515(3)

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1985

IN RE: GRAND JURY MATTER

Antoni Gronowicz, Petitioner,

v.

United States of America, Respondent

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT

BRIEF OF AMICUS CURIAE THE AMERICAN CIVIL LIBERTIES UNION IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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HOPP

QUESTIONS PRESENTED

1. Whether the First Amendment prohibits a criminal investigation into the truth of a book about a public issue, merely on the basis of allegations that the book is a fraud.

2. Whether the First Amendment prohibits the government from subpoenaing an author to testify or produce documents to a grand jury investigating the truth or falsity of statements in a book about a public issue.

3. Whether the First Amendment requires the government to justify a criminal inquiry into the truth of a book about a public issue by demonstrating a compelling interest, or by making a heightened showing of probable cause.

4. Whether the First Amendment or federal common law affords authors a

privilege to resist a criminal inquiry into the truth of a book about a public issue, unless the government can show that the author's testimony is unattainable from other sources, procurable only from the author and central to the inquiry.

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INTRODUCTION

Having obtained the consent of the parties to this case,[1] amicus curiae The

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1/ Copies of the letters granting consent are being submitted with this brief.

American Civil Liberties Union submits this brief in support of Antoni Gronowicz's petition for a writ of certiorari to the United States Court of Appeals for the Third Circuit.

Amicus adopts and incorporates herein those portions of Gronowicz's petition for certiorari setting forth the opinions below, the grounds for jurisdiction in this Court and the constitutional and statutory provisions involved. Amicus also adopts and incorporates the Statement of the Case in Gronowicz's petition, and adds the following statement of its interest in the matter:

The American Civil Liberties Union is a non-profit organization dedicated to the protection of rights guaranteed by the First Amendment and other provisions of the Bill of Rights.

Amicus has submitted briefs to this Court in appeals affecting freedom of expression. It filed briefs amicus curiae in this case in both the district court and the court of appeals, and participated in oral argument in the district court.

Amicus takes no position on the truth or falsity of Gronowicz's book. It files this brief, with the consent of the parties, to urge that the writ of certiorari sought by Gronowicz be granted, because the decision below raises unprecedented First Amendment questions, of great importance to authors and others who disseminate information to the public, which urgently require review by this Court.

REASONS FOR GRANTING THE WRIT

In both its genesis and its outcome below, this case is unprecedented. Never before has the federal government sought by its powers of criminal investigation to compel an author to verify his work. Never before has a federal court of appeals permitted the government to do so.

The evil inherent in this result was recognized by Thomas Jefferson 170 years ago:

> I am really mortified to be told that, in the United States of America, a fact like this can become a subject of inquiry, and of criminal inquiry too, as an offense against religion; that a question about the sale of a book can be carried before the civil magistrate. Is this then our freedom of religion? And are we to have a censor whose imprimatur shall say what books may be sold, and what we may buy? And who is thus to dogmatize religious opinions for our citizens? Whose foot is to be the measure to which ours are

> all to be cut or stretched? Is a priest to be our inquisitor, or shall a layman, simple as ourselves, set up his reason as the rule for what we are to read, and what we must believe? It is an insult to our citizens to question whether they are rational beings or not, and blasphemy against religion to suppose it cannot stand the test of truth and reason. If M. de Becourt's book be false in its facts, disprove them; if false in its reasoning, refute it. But, for God's sake, let us freely hear both sides, if we choose.

Letter to N.G. DuFief, April 19, 1814, in XIV Writings of Thomas Jefferson, 127 (Bergh. ed. 1907) (emphasis supplied). That this case has taken 200 years to arise best demonstrates the significance of the question it presents.

Broadly stated, that question is a simple one: whether the First Amendment protects an author from a criminal inquiry into the truth of a book about an important public issue. The majority below answered

that question with an unequivocal negative; neither the character of Gronowicz's book as speech on a public issue nor the impact of a criminal inquiry on truthful speech affected its analysis.

Moreover, the decision below cannot be limited to this case. Its broad language authorizes the government to inject itself, at any time and on the most evanescent justification, into the "uninhibited, robust, and wide-open" discussion by authors of public issues. See New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964). The prior decisions of this Court -- including those relied on below -- do not support, and in fact forbid, such governmental encroachment into the First Amendment's core.

For these reasons, amicus submits that this Court should grant Gronowicz's petition for certiorari.

I. The Decision Below Raises Fundamental Unanswered Questions Of First Amendment Law That Deserve This Court's Immediate Attention.

"Speech on public issues occupies the 'highest rung of the hierarchy of First Amendment values,' and is entitled to special protection." Connick v. Myers, 461 U.S. 138, 145 (1983), quoting NAACP v. Claiborne Hardware Co., 458 U.S. 886, 913 (1982). Gronowicz's book falls into this favored category. Its subject is the Pope, a "public figure for all purposes" under the First Amendment. See Gertz v. Robert Welch, Inc., 418 U.S. 323, 345 (1974). Its scope is his impact on religious and political affairs, "a matter of public concern" by any definition. See Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., ___ U.S. ___, ___, 105 S.Ct. 2939, 2945-46 (1985); Time, Inc. v. Hill, 385 U.S. 374, 388 (1967).

The character of the book notwithstanding, the court of appeals authorized a criminal inquiry into its truth by the federal government, based only on allegations that the book was false. It reasoned that the "focus" of the inquiry was on Gronowicz's representations about the book and not the book itself. In re Grand Jury Matter, Gronowicz, 764 F.2d 983, 987 (3d Cir. 1985). It held these statements, if intentionally false, worthy of no First Amendment protection against inhibition, even when that restraint takes the form of a criminal investigation into their purported falsity. Id. at 988.

This reasoning discounts the paramount constitutional significance of the book, the inevitable focus of the investigation on the book's contents and the propensity of a criminal inquiry to deter truthful speech. As Judge Sloviter recognized below:

> I am not as disturbed as are some of my colleagues that lurking behind the book is the possibility of fraud. If either the publisher or the putative movie producer has in fact been defrauded, there is ample opportunity for them to recover in civil litigation. I am distressed because the majority fails to recognize the quintessential difference between the issue here and that presented by the civil libel cases from which it freely borrows - and that is the role played by the government and its ability to control, and even manipulate, the grand jury.

764 F.2d at 1001 (Sloviter, J., dissenting) (emphasis supplied). For three distinct but related reasons, the First Amendment implications of the majority's approach merit this Court's review.

A. This case affords the Court the opportunity to speak authoritatively on the constitutional difference between civil and criminal punishment for false speech.

Gronowicz wants the validity of his book to be judged in the "marketplace of ideas." See Abrams v. United States, 250 U.S. 616, 630 (1919). (Holmes and Brandeis, JJ., dissenting). Moreover, he has submitted his book's validity to the civil litigation process, by suing the purchaser of the movie rights for breach of contract and subjecting himself to a counterclaim for fraud. He objects only to the government's insinuating itself into this dispute through its criminal process. This case therefore raises the question of whether a difference of constitutional magnitude exists between civil and criminal punishment for false speech.

This Court has never squarely addressed that question. Although it has indirectly sanctioned criminal libel prosecutions, see Garrison v. Louisiana, 379 U.S. 64 (1964),[2] it has also exhibited profound unease at the concept of the government determining the truth of public speech. As pointed out below, 764 F.2d at 1000-01 (Sloviter, J., dissenting), Garrison itself suggested that criminal libel is appropriate, if at all, only in cases of imminent danger to the public peace. 379 U.S. at 69-70. See Ashton v. Kentucky, 384 U.S. 195, 198 (1966). Lower courts and commentators have read this Court's decisions to prohibit criminal libel altogether. See Tollett v. United States,

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2/ Garrison required a showing of "actual malice" to recover in a criminal libel prosecution against a public official. 379 U.S. at 76.

485 F.2d 1087, 1094 (8th Cir. 1973); United States v. Handler, 383 F. Supp. 1267, 1278 (D. Md. 1974); T. Emerson, The System of Free Expression 543 (1971).

The distinction between civil and criminal punishment is important because of the relative ability of each to "chill" truthful speech. See New York Times Co. v. Sullivan, 376 U.S. at 273-79. As Judge Higginbotham observed below:

> The consequences, and hence the coercive potential, of criminal prosecutions are profoundly more onerous than those of civil actions. In this context I find it more difficult to indulge the assumption that punishment of knowing or reckless falsehood will not deter truthful speech.

764 F.2d at 997 (Higginbotham, J., dissenting) (footnote omitted).

Gronowicz based his First Amendment claim on this distinction, and the court of appeals flatly rejected it. The signifi-

cance of Gronowicz's book as public speech demonstrates how important that distinction can be. Accordingly, the Court should grant certiorari to speak authoritatively on this crucial constitutional question.

B. This Court should examine the conclusion below that an author's affirmation of his book's validity can, as a constitutional matter, be distinguished from the truth of the book itself.

Perhaps to minimize the constitutional significance of this case, the court of appeals found that the government's criminal inquiry "focused upon the truth or falsity of representations made by Gronowicz to . . . the publisher and [purchaser of movie rights]." 764 F.2d at 987. Similarly, the government argued below that these representations, rather than the book itself, formed the crux of the case and were

"commercial speech" entitled only to attenuated First Amendment protection. See id. at 995 (Higginbotham, J., dissenting).

Even if one accepts that the government's investigation focused on the truth of Gronowicz's representation about the book,[3/] this approach to characterizing speech has serious and troubling constitutional implications. This Court should address them.

In making "representations" about his book, Gronowicz was simply vouching for his book's authenticity to potential purchasers. These representations cannot logically be divorced from the truth of the book: As Judge Hunter pointed out below:

3/ Amicus believes, and would argue to this Court on the merits, that the indisputable focus of the government's inquiry is the truth of the book itself. The record below fully supports that position.

> [T]he majority refuses to acknowledge that in a case such as this, where the fraud consists solely of procuring publication of a book which the Government alleges is untrue, the purpose of the investigation must be to establish the truth of the book itself, and not merely the truth of the representations about the book. If the book is true, there can be no fraud.

764 F.2d at 992 (Hunter, J., dissenting).

Nor does the distinction between representations to purchasers about the book's validity and the truth of the book comport with existing First Amendment principles. Speech on public issues does not lose its protected character merely because it occurs under commercial auspices. Bolger v. Youngs Drug Products, 463 U.S. 60, 67 (1983); Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 501-02 (1952). See Central Hudson Gas & Electric Corp. v. Public Service Comm'n of New York, 447 U.S.

557, 580 (1980) (Stevens, J., concurring in judgment).

Moreover, the government cannot restrain speech indirectly if that speech is protected against direct restraint. See Smith v. Daily Mail Pub. Co., 443 U.S. 97, 101-02 (1979). The protections of the First Amendment do not turn on such evanescent distinctions. See Dombrowski v. Pfister, 380 U.S. 479, 486-87 (1965); Smith v. California, 361 U.S. 147, 150-51 (1959). Cf. Lebron v. Washington Metropolitan Area Transit Authority, 749 F.2d 893, 898-99 (D.C. Cir. 1984) (ban on deceptive advertising violates First Amendment even as a "time, place and manner" regulation, since "assessment of the deceptiveness of a message necessarily involves a judgment about the substance and content of that message").

If the court of appeals' approach to Gronowicz's book is permitted, then written speech on public issues will lose a degree of First Amendment protection whenever its author vouches for its validity or offers it for sale. Amicus believes the First Amendment prohibits this result, and therefore urges this Court to review the distinction drawn below.

C. This Court should grant certiorari to consider under what circumstances, and to what extent, purportedly intentional false statements of fact are protected by the First Amendment.

The court of appeals reasoned that, since a false statement of fact intentionally made receives no First Amendment protection, the government could require Gronowicz to refute allegations that his book was a fraud. Because the book's

public importance is manifest, and because the government's criminal inquiry - perhaps based initially on anonymous information - constitutes such a severe restraint on speech, the decision below amounts to a holding that purportedly false statements of fact never deserve First Amendment protection. The fundamental constitutional significance of that holding demands this Court's review.

Contrary to the perception of the court of appeals, superficial reference to the unprivileged constitutional character of false factual statements cannot resolve this case. As often as this Court has stated that "there is no constitutional value in false statements of fact," see Gertz, 418 U.S. at 340, it has asserted, with equal if not greater force, that the First Amendment affords those statements some protection to

ensure that speech is not "chilled" by the threat of punishment. "[E]rroneous statement is inevitable in free debate, and ... must be protected if the freedoms of expression are to have the 'breathing space' that they 'need to survive.'" New York Times Co. v. Sullivan, 376 U.S. at 271-72 (citation omitted).

Accordingly, the fundamental First Amendment issue presented by this case is whether the threat of a criminal prosecution by the government, whenever the facts in book are alleged to be false, will so deter truthful speech that free discussion will be inhibited. The decision below barely even addresses that issue. Instead, without reference to either the character of the speech or the severe deterrent effect of a criminal investigation, it simply allows the government to presume the speech false and

then validates that presumption under existing First Amendment precedent. Solicitude for the government's investigatory process swallows up the demands of the First Amendment; no attempt is made to balance the public interest in the government's investigation against the adverse effect of the investigation on free speech. See Branzburg v. Hayes, 408 U.S. 665, 710 (1972) (Powell, J., concurring).

This Court should grant certiorari to perform that essential constitutional balancing, taking into account the character of the speech, the inevitable focus on the truth of the book, and the deterrent effect of the threat of a criminal prosecution on speech.

Amicus believes that a criminal inquiry into the truth of Gronowicz's book effectively injects the government into a

dispute over a public issue, and that the proper First Amendment calculus absolutely prohibits such conduct. See New York Times Co. v. Sullivan, 376 U.S. at 273-79 (discussing unconstitutionality of Sedition Act of 1798). Alternatively, amicus believes that the government must justify that inquiry with some compelling interest independent of prevention of crime, see Gibson v. Florida Legislative Investigating Committee, 372 U.S. 539, 546 (1963), or some heightened showing of probable cause, see In re Grand Jury Matter, Gronowicz, 764 F.2d at 991 (Becker, J., concurring). A related alternative, suggested below by Judge Higginbotham, 764 F.2d at 999, would afford Gronowicz a qualified constitutional privilege, akin to the "journalist's privilege" currently

recognized by every court of appeals that has addressed the question.[4/]

4/ See, e.g., Zerilli v. Smith, 656 F.2d 705 (D.C. Cir. 1981); Carey v. Hume, 492 F.2d 631 (D.C. Cir.), cert. dismissed, 417 U.S. 938 (1974); Bruno & Stillman, Inc. v. Globe Newspaper Co., 633 F.2d 583 (1st Cir. 1980); United States v. Burke, 700 F.2d 70 (2d Cir. 1980), cert. denied, ___ U.S. ___, 104 S. Ct. 72 (1983); In Re Petroleum Products Antitrust Litigation, 680 F.2d 5 (2d Cir.), cert. denied sub nom., Arizona v. McGraw-Hill, Inc., 459 U.S. 909 (1982); Baker v. F & F Investment, 470 F.2d 778 (2d Cir. 1972), cert. denied, 411 U.S. 966 (1973); United States v. Criden, 633 F.2d 346 (3d Cir. 1980), cert. denied sub. nom, Schaffer v. United States, 449 U.S. 1113 (1981); United States v. Cuthbertson, 630 F.2d 139 (3d Cir. 1980), cert. denied sub nom., Cuthbertson v. CBS, Inc., 449 U.S. 1126 (1981); Riley v. City of Chester, 612 F.2d 708 (3d Cir. 1979); United States v. Steelhammer, 539 F.2d 373 (4th Cir. 1976), rev'd in part on reh. en banc, 561 F.2d 539 (4th Cir. 1977); In Re Selcraig, 705 F.2d 789 (5th Cir. 1983); Miller v. Transamerican Press, Inc., 621 F.2d 721 (5th Cir.), cert. denied, 450 U.S. 1041 (1981); Cervantes v. Time, Inc. 464 F.2d 986 (8th Cir. 1972), cert. denied, 409 U.S. 1125 (1973); Farr v. Pitchess, 522 F.2d 464 (9th Cir. 1975), cert. denied, 427 U.S. (continued)

However, the extent, if any, of First Amendment protection for purportedly intentional false statements of fact is not now before this Court. What is before it is the opportunity to address a fundamental constitutional question, which, as discussed below,[5] has wide-ranging application and has never been squarely addressed by the Court. Amicus urges this Court to seize that opportunity by granting Gronowicz's petition for a writ of certiorari.

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912 (1976); Silkwood v. Kerr-McGee Corp., 563 F.2d 433 (10th Cir. 1977). Although the Eleventh Circuit has not yet considered the issue, the Fifth Circuit opinions cited above are precedent within the Eleventh Circuit. Bonner v. City of Prichard, 661 F.2d 1206 (11th Cir. 1981).

5/ See Parts II and III of this section, infra.

II. In Both Breadth And Import, The Decision Below Jeopardizes The Ability Of Every Author Freely To Express Himself On Issues Of Public Interest.

The court of appeals opinion is not limited to the facts of this case. Its reasoning is applicable to any book, any magazine article, any writing whatsoever on a matter of public interest. Its consequences for the free flow of information about significant public issues are enormous; authors and journalists everywhere are now subject to intrusive criminal inquiry based solely upon a challenge to the validity of a published work. The far-reaching significance of this opinion justifies the grant of certiorari.

No writing on public issues can escape the effect of this case. In virtually every instance, the composition, publication and distribution of such writings involve use by

their authors of the mails and telephone system. Every author can be expected to vouch for the validity of his work. Moreover, in many instances - particularly when writing about public officials or public figures - authors must rely on sources whose existence cannot be proven after the fact. This important contribution to public debate will evaporate if authors risk criminal prosecution whenever a source refuses to corroborate a story, or is not available to do so.

That risk is both real and significant. Public issues are often controversial or sensitive, and authors who choose to write about them are subject to numerous uncertainties. Their sources may die, disappear, refuse to testify, withhold substantiation or recant. Their published writings may challenge orthodoxy or

entrenched interests. As Judge Sloviter pointed out below, the truth of such books as All the President's Men, Silent Spring, Unsafe at Any Speed and even The Origin of the Species would be subject to criminal investigation under the decision below. See 764 F.2d at 1001-02 (Sloviter, J., dissenting). That these books contain "facts" rather than "opinions" does nothing to diminish the threat to First Amendment freedoms that a criminal investigation of them would pose.

Were this Court to sanction the government's investigative actions, then the subject of any book or article might transform his dissatisfaction with it into a case of mail or wire fraud by disputing the sources claimed by the author. Alternatively, the government could instigate a criminal prosecution on its own

suspicion of invalidity. See 18 U.S.C. §§1341, 1343. The threat of either is sufficient to constrict the "breathing space" due First Amendment rights, see NAACP v. Button, 371 U.S. 415, 433 (1963), by inducing authors to avoid writing and publishing on controversial subjects. Such self-censorship, "compelled by the State, would be a censorship affecting the whole public, hardly the less virulent for being privately administered." Smith v. California, 361 U.S. at 154.

If the decision below is allowed to stand, any author preparing a book or article on controversial public or social issues might be deterred from publishing factual statements on dangerous matters by the chilling effect of a possible grand jury investigation or criminal inquiry. This Court should grant certiorari to review the

enormous impact of the decision on First Amendment rights.

III. Prior Decisions Of This Court Do Not Support, And In Fact Conflict With, The Decision Below.

This Court should also grant certiorari to consider the proper application of its prior decisions to this unprecedented case. Neither the court of appeals' decision nor the government's position below, which that decision adopts, fully acknowledges that the case involves more than the government's power to conduct a routine grand jury investigation. That failure undermines the reliance placed on this Court's precedent.

For example, both Herbert v. Lando, 441 U.S. 153 (1979), relied on by the court of appeals, and Branzburg v. Hayes, 408 U.S. 665 (1972), relied on by the government, do

not support the decision below. Neither case involved an attempt by the government to inject itself into a debate over the truth of speech on a public issue; nothing in either case sanctions such an inquiry.

In Branzburg, the government sought testimony from a reporter who had observed a crime and published an account of its circumstances. See 408 U.S. at 667-79. There the government accepted the story as true and sought further particulars; here the government's inquiry is predicated on the assumption that the published account (the book) is invalid. In Branzburg, the government presumed that the crime under investigation was accurately described in the published account; here the alleged crime is the published account itself. The Court in Branzburg recognized this distinction when it noted that "no penalty,

civil or criminal, related to the content of published material is at issue here." 408 U.S. at 681. Thus, the factors that the government alleges make this case "weaker" than Branzburg are the very factors that make Branzburg inapposite.

Herbert v. Lando is even less relevant. Herbert was a civil libel action in which the public figure plaintiff sought access to the media defendants' mental processes and editorial discussions for the purpose of proving "actual malice" in publication. The Supreme Court held that such access was consistent with the requirements of New York Times Co. v. Sullivan, supra, and was not prohibited by the First Amendment. See 441 U.S. at 169. In so doing, the Court noted that the

inhibition flowing from such a rule would not unduly discourage publication of true information. Id. at 171.

In this case, Gronowicz has not objected, and does not object, to the principle laid down in Herbert v. Lando. To the contrary, he has, by filing suit against the purchaser of movie rights to his book, affirmatively invited the sort of inquiry that Herbert allows. He thus does not object to any inhibition thereby imposed on the publication of knowingly or recklessly false information. He seeks protection from a different sort of inhibition altogether: the prospect that he, and any other author who attempts to address a public issue, must risk criminal prosecution if he cannot convince the government, and not just the public or a civil jury, that his expression is true.

Moreover, the risk is especially pernicious in cases such as this one. Authors like Gronowicz are often put in a position where the source of their published information cannot be produced for verification. Yet the government would here force Gronowicz to validate the statements in his book, without even the adversary safeguards that attend such an inquiry in civil litigation. Shifting the burden of proof to the speaker in this manner is constitutionally impermissible in First Amendment cases. See Speiser v. Randall, 357 U.S. 513, 526-29 (1958).

> Under such a rule, would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so. They tend to make only statements which "steer far wider of the unlawful zone."

> The rule thus dampens the vigor and limits the variety of public debate. It is inconsistent with the First and Fourteenth Amendments.

New York Times Co., 376 U.S. at 279 (citation omitted).

Similarly, the court of appeals cannot justify the government's criminal inquiry simply because it is a "post-publication sanction" rather than a prior restraint. See 764 F.2d at 987-88. Prior decisions of this Court make clear that in appropriate circumstances, post-publication restraints may be prohibited, limited to areas of compelling governmental interest or otherwise constitutionally circumscribed. See Smith v. Daily Mail Pub. Co., 443 U.S. at 101-02; Gibson v. Florida Legislative Investigating Committee, 372 U.S. at 546-47; Smith v. California, 361 U.S. at 154. The question presented by

this case is whether such "appropriate circumstances" exist. The court of appeals' failure to perceive that question, and consequent misreading of this Court's precedent, is another reason for granting certiorari.

Finally, cases like United States v. Ballard, 322 U.S. 78 (1944), relied on below, do not control this one. Ballard involved a challenge to a criminal prosecution based on the First Amendment's religion clauses, and not on the amendment's free speech guarantees. Moreover, Ballard held only that a court may not submit the truth of a defendant's religious beliefs to a jury, 322 U.S. at 88; it did not address the question of whether, or under what circumstances, the government may predicate a criminal inquiry into the truth of a book on an allegation that the book is false.

This Court has consistently demonstrated a preference that allegedly false speech be remedied by competing speech rather than government regulation. See Whitney v. California, 274 U.S. 357, 377 (1927) (Brandeis and Holmes, JJ., dissenting); see also Linmark Associates, Inc. v. Township of Willingboro, 431 U.S. 85, 97 (1977). It has recognized that false speech on public issues - or the possibility that such speech may be false - must sometimes be accepted to protect open debate. New York Times Co., supra. It has acknowledged the dangers inherent when the government's coercive power is employed to punish or restrict speech. Garrison v. Louisiana, supra.

The decision below notwithstanding, this Court has never brought these principles to bear on a case like this one;

its prior decisions in the areas of civil libel and journalist's privilege do not dictate their proper application. This Court should grant Gronowicz's petition for a writ of certiorari to examine this case in the light of its prior First Amendment precedent.

CONCLUSION

For the foregoing reasons, amicus curiae the American Civil Liberties Union respectfully requests this Court to grant the petition of Antoni Gronowicz for a writ of certiorari in this case.

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Respectfully submitted,

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